Illinois Commerce Commission On its Own Motion	**)**	
	)	
Investigation Concerning Illinois Bell Telephone Company's compliance with Section 271 of the Telecommunications Act of 1996	**)**	**Docket No. 01-0662**

AFFIDAVIT OF JAMES ZOLNIEREK

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TELECOMMUNICATIONS DIVISION

ILLINOIS COMMERCE COMMISSION

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1. Introduction

I, James Zolnierek, being of lawful age and duly sworn upon my oath, do hereby depose and state as follows:

1. My name is James Zolnierek. I am employed by the Illinois Commerce Commission as the Manger of the Policy Department in the Telecommunications Division. My business address is 527 East Capitol Avenue, Springfield, Illinois 62701.

II. Education and Background

2. I earned my Bachelors of Science degree in mathematics from Michigan State University in 1990. I also earned from Michigan State University both a Master of Arts degree in economics in 1993 and a Doctor of Philosophy degree in economics in 1996.

3. I have been a Visiting Professor of Economics in the Department of Economics at both the University of Nebraska and Arizona State University. Prior to joining the Illinois Commerce Commission I was employed by the Federal Communications Commission ("FCC") in the Common Carrier Bureau, Industry Analysis Division.

III. Purpose of the Testimony

4. My testimony is comprised of two parts. SBC Illinois Witness James Ehr submits two attachments to his Phase II Affidavit in this proceeding, Attachment A "SBC Illinois' Performance Measurement Results" and Attachment B "SBC Illinois' Performance Measurements Tracking Report (DOJ)."[1] which he states "reflect the level of service SBC Illinois provides to

[1] Affidavit of James D. Ehr on Behalf of SBC Illinois ("Ehr Phase II Affidavit"), Attachments A and B. Hereafter I will refer to these Attachments as "Ehr Attachments A and B".

Illinois CLECs."[2] In the first part of my testimony I will analyze the data submitted by Mr. Ehr as it pertains to SBC Illinois' compliance with Checklist Item (i) – Interconnection, Checklist Item (iv) – Unbundled Local Loops, Checklist Item (v) – Unbundled Local Transport, and Checklist Item (vi) – Unbundled Local Transport. In particular I will analyze SBC Illinois' performance with respect to installation timeliness, installation quality, maintenance and repair service, and Facilities Modification (FMOD) related provisioning as reflected in Performance Measurements ("PMs") 55, 55.1, 55.2, 56, 56.1, 58, 60, 61, 62, 63, 59, 65, 65.1, 66, 67, 68, 69, CLEC WI 6, CLEC WI 7, CLEC WI 8, CLEC WI 9, and CLEC WI 11.

The second part of my testimony examines Phase I Compliance Issues. There are four issues I examine in this part of my testimony: (1) whether the Company has demonstrated that it permits CLECs to opt-in to UNE rates, terms, and conditions found in its Illinois tariffs or effective interconnection agreements[3], (2) whether the Company has demonstrated that it has appropriate performance measures in place to measure its provision of EELs combinations[4], (3) whether the Company has clarified the application of its tariffed UNE combination rates[5], and (4) whether the Company has demonstrated that its UNE combination rates are within a zone of reasonableness.[6]

IV. Performance Measures and Standards

5. In my analysis of Ehr Attachments A and B I will analyze performance measurements that fall into four performance categories: installation

[2] Ehr Phase II Affidavit at ¶ 6.
[3] This issue is addressed by the Company in the Phase 1A Compliance Affidavit of Scott J. Alexander on Behalf of SBC Illinois "Alexander Phase 1A Compliance Affidavit").
[4] This issue is addressed by the Company in the Phase 1A Compliance Affidavit of James D. Ehr on Behalf of SBC Illinois ("Ehr Phase 1A Compliance Affidavit").
[5] This issue is addressed by the Company in the Phase 1A Compliance Affidavit of Michael D. Silver on Behalf of SBC Illinois ("Silver Phase 1A Compliance Affidavit").
[6] This issue is addressed by the Company in the Silver Phase 1A Compliance Affidavit.

timeliness, installation quality, maintenance and repair service, and FMOD process. In some instances, as dictated by the information in Attachments A and B, I will only analyze a subset of these performance categories. For example, the performance measures I examine with respect to dedicated transport provisioning indicate that no installations have occurred in recent months. The performance measures I examine do however indicate that the company maintains and services existing dedicated transport trunks. Therefore, with respect to unbundled dedicated transport I analyze only the performance category "maintenance and repair service" when analyzing the Company's performance.

6. As will be explained below a number of the performance measures I examine may not accurately reflect Company performance. As Mr. Ehr has explained, one way to approach an analysis of PM data is to

> …provide greater weight to certain measures than other measures, particularly, where a measure is a subset of a process which measures the true impact to end customers.[7]

In my opinion, this approach is logical and I will follow it in my analysis.

7. However, as noted by Mr. Ehr the Company possesses information that is unknown to Staff. For example, unbeknownst to Staff, the Company may be meeting its due dates but failing certain parity tests because CLEC customers request due dates beyond the Company's retail provisioning intervals.[8] In order to address this information problem Mr. Ehr recommends that where there is an area of concern, that Staff request explanation from the Company. Mr. Ehr states:

[7] Tr. at 3048.
[8] Tr. at 3049.

> Myself, I would provide that explanation and that would aid staff in their analysis of the performance results as a whole as to whether these performance results demonstrate compliance with the checklists.[9]

I agree with Mr. Ehr that this is reasonable for the Company to work with Staff and the Commission to supply information that will provide a better understanding of the PM data.

8. In my analysis I will identify performance measurement information that suggests the Company is not performing up to levels consistent with those required for Section 271 authority. I will, as suggested by Mr. Ehr, request that the Company provide an explanation for these seeming deficiencies in performance. The Company should provide specific information to explain the seeming deficiencies that proves that performance deficiencies are, for example, related more to measurement error than to simple bad performance. For example, Staff questioned Mr. Ehr on the Company's failure to satisfy parity criteria for PM 104 in certain months. Mr. Ehr explained that failures regarding this measure could be attributable to erroneous data submitted by CLECs.[10] However, he admitted that he did not know this to be the case.[11] Clearly this leaves open the possibility that the Company simply performed badly with respect to this measure. When providing responses to Staff's concerns the Company should provide definitive responses that eliminate this type of ambiguity. That is, if erroneous data is causing poor performance measurement results, the Company must provide information that proves this to be the case. Responses of this nature will allow Staff to make an informed recommendation to the Commission.

[9] Tr. at 3049.
[10] Tr. at 3057.

Summary of Performance Measures and Standards

9. In this section I summarize the performance measures and standards that I review in my analysis. In summarizing each performance measure I will provide a brief description of the PM[12], I will explain whether the measure is a parity measure or a benchmark measure, and I will describe certain significant Ernst & Young ("E&Y") "interpretation" issues and certain significant E&Y "exceptions to compliance" that affect the ability of the performance measures I examine to accurately measure performance, and thus my analysis of the Company's performance.[13]

10. I will not address all of the E & Y interpretation issues, nor will I address all of the E & Y exceptions to compliance. This does not imply that issues I do not address are insignificant. Rather, I have focused on issues that the Company has not yet taken action to remedy and the issues that will affect the ability of the performance measures to accurately measure performance and my analysis of performance. For those issues that the Company has taken action to remedy there is no evidence that proves that the Company has, or has not, adequately addressed E & Y's concerns. Therefore, I cannot speak to the significance of these issues or to whether these issues affect the accuracy of the performance measures or my analysis. Staff Witness Nancy Weber does, however, addresses Staff's analysis of the E & Y review.

11. The presumption in my analysis of performance is that the PM data reported by the Company correctly measures performance. As indicated below, and as further indicated by Ms. Weber, this presumption is definitely incorrect with respect to some measures and may be incorrect with respect to others. Thus, the analysis I provide is certainly impaired by concerns regarding the

[11] Tr. at 3058.
[12] These descriptions provide a general summary of the measure and are not intended to detail all inclusions and exclusions. For such detail, see ILL. C. C. 20, Part 2, Section 11.

reliability of the PM data the Company has provided. Nevertheless I provide the performance analysis below with the qualification that it is subject to the concerns regarding the reliability of the PM data and any factual information to the contrary, which other parties may introduce.

Installation Timeliness

PM 55 – Average Installation Interval

12. Brief Definition: ILL. C.C. No. 20, Part 2, Section 11, Original Sheets 208-210 define PM 55, the Average Installation Interval, as:

> Average Business days from application date to completion date for N, T, and C orders. The "X" business days is determined based on quantity of UNE stand-alone loops ordered and the associated standard interval.

Thus, according to the Company's business rules, this PM measures the time it takes the Company to install stand-alone UNE loops of different types when CLEC customers request "standard" installation intervals and does so by comparing these installation intervals against installation intervals for the Company's retail customers. However, as explained below the Company measures not only the time it takes to install stand-alone UNE loops when CLEC customers request "standard" installation intervals, but also the time it takes to install CLEC stand-alone loops when CLEC customers request due dates beyond "standard" installation intervals. The standard for this measure is parity.

13. Interpretation Issues: Despite the Company's business rules, this measure is not measuring the time it takes the Company to install stand-alone UNE loops when CLEC customers request "standard" installation intervals. As Ehr Phase II Affidavit, Attachment R indicates, E & Y, when examining

[13] Ehr Phase II Affidavit, Attachment R, contains a list of E & Y "Interpretation Issues." Ehr Phase II Affidavit, Attachment Q, contains a list of E & Y "Exceptions to Compliance."

interpretation issues, found that "[t]he exclusion of CLEC requested due dates greater than "X" business days is not being applied for Illinois Orders."[14] Thus, according to the Company this measure is not only measuring the time it takes to install stand-alone UNE loops when CLEC customers request "standard" installation intervals, but also the time it takes to install CLEC stand-alone loops when CLEC customers request due dates beyond "standard" installation intervals. Thus, if a CLEC customer requests installation 25 days from the date of the order for a loop that has a "standard" 3-day installation interval, the inclusion of this 25-day request in the calculation of PM 55 will generally increase the CLEC average interval relative to the ILEC average interval even when the Company installs the loop on time on the 25th day.[15]

14. The argument proffered by the Company to E & Y to support its computation of this PM is that because this is a parity measure the standard intervals contained in the Company's business rules for this measure don't apply. The Company therefore elects to include all retail orders regardless of the due dates selected by the Company's customers and similarly includes all CLEC customer installations regardless of due dates requested. The Company argues parity is best measured by including CLEC customer installations regardless of due date.[16]

15. Despite the Company's arguments to E & Y, Mr. Ehr has suggested that Company's interpretations may, in some instances, reduce the usefulness of certain measures.[17] With respect to this measure, if CLEC customers request due dates that are on average beyond the requested due dates of the Company's retail customers, then this PM may show a failure to provision at

[14] Ehr Phase II Affidavit, Attachment R, E&Y Interpretation Issue 24 at 8.
[15] This example assumes that the Company's customers request installation intervals that are on average less than 25 days from the date an order is placed.
[16] Id.
[17] Mr. Ehr addressed a parallel problem with respect to installation of POTS – CIA Centrex. Tr. at 2992-2996.

parity even when the Company is performing at parity in meeting CLEC customer requested due dates. Conversely, if CLEC customers request due dates that are on average shorter than the requested due dates of the Company's retail customers, then this PM may show the Company to be provisioning at parity even when the Company is not performing at parity in meeting CLEC customer requested due dates.

16. Exceptions to Compliance: Even if E & Y's interpretation issue is ignored, the ability of this PM to measure relative installation performance is questionable. E & Y stated in its Exceptions to Compliance that "[t]he Company utilized the wrong field to determine the exclusion for customer-requested due dates in excess of the stated time period in the Business Rules."[18] This exception implies that the Company does, in contrast to its response to E & Y's interpretation issue, establish an interval, but a random interval rather than the "standard" interval listed in the business rules. Thus, E & Y's analysis indicates this particular PM is subject to a data recording error and will not accurately reflect performance.

PM 55.1 – Average Installation Interval - DSL

17. Brief Definition: ILL. C.C. No. 20, Part 2, Section 11, Original Sheets 211-213 define PM 55.1, the Average Installation Interval - DSL, as:

> Average calendar days from application date to completion date for N, T, and C orders.

Thus, according to the Company's business rules, this PM measures the time it takes the Company to install DSL loops of different types when CLEC customers request "standard" installation intervals. For loops with linesharing this is a parity measure. For loops with no linesharing this is a benchmark measure.

18. Interpretation Issues: Despite the fact that for loops with linesharing this is a parity measure, E & Y does not include in its list of interpretation issues interpretation concerns similar to those found for average installation intervals for other loops types. That is E & Y does not indicate that the exclusion of CLEC requested due dates greater than "X" business days is not being applied for Illinois linesharing DSL orders. The failure of E & Y to identify this interpretation issue indicates either an oversight by E & Y or an unexplained contradiction in methodology used by the Company when measuring stand-alone DSL loops versus voice-grade and other loop types.

19. Exceptions to Compliance: E & Y states in its Exceptions to Compliance that "[t]he Company utilized the wrong field to determine the exclusion for customer-requested due dates in excess of the stated time period in the Business Rules" for the linesharing disaggregation of PM 55.1.[19] Thus, again E & Y's analysis indicates this particular PM, with respect to the linesharing disaggregation is subject to a data recording error and will not accurately reflect performance.

PM 55.2 – Average Installation Interval – Loop w LNP

20. Brief Definition: ILL. C.C. No. 20, Part 2, Section 11, Original Sheets 214-216 define PM 55.2, the Average Installation Interval – Loop w LNP, as:

> Average business days from the receipt of an accurate LSR to completion date for N, T, and C orders excluding customer caused misses and customer requested due date greater than "X" business days. The "X" business days is determined based on quantity of UNE loops ordered and the associated standard interval.

[18] Ehr Phase II Affidavit, Attachment Q, E&Y Exception V.7, at 30.
[19] Id.

Thus, according to the Company's business rules, this PM measures the time it takes the Company to install loops with LNP of different types when CLEC customers request "standard" installation intervals or intervals no greater than the "standard" interval plus one day.[20] This measure is neither a parity nor benchmark measure, but rather is diagnostic.

21. Interpretation Issues: While the E & Y information does not reference this measure, the business rule description indicates that the measure does not precisely measure performance. For example, the measure captures CLEC orders with due dates beyond the standard interval. Therefore, if the calculated PM results indicate that the average installation interval for loops with LNP exceeds the standard interval there is no way to determine whether this result is the product of poor Company performance or the product of CLEC customer requests for installation dates beyond the standard interval.

22. In my analysis below, I examine average installation intervals for CLEC customer orders against a benchmark equal to the "standard" installation interval plus one day. Because of the interpretation issue for this measure explained above, this approach may fail to identify poor company performance. For example, if the company is consistently receiving requests for "standard" installation intervals and consistently misses these intervals by one day, my analysis will fail to capture the Company's deficient performance.

PM 56 – % Installs by CRDD

23. Brief Definition: ILL. C.C. No. 20, Part 2, Section 11, Original Sheets 219-222 define PM 56, the Percent Installations Completed Within Customer Requested Due Date, as:

[20] The Company's business rules define "X" days as the number of days equal to the standard interval plus one day.

> Percent installations completed within customer requested due date when the date is later than or equal to the standard offered interval as defined in the telecommunications carrier manual or, if expedited (accepted or not accepted), the date agreed to by the Company.

Thus, according to the Company's business rules, this PM measures whether the Company is installing loops on time when CLECs request due dates outside the "standard" installation interval. It does not measure whether the Company is installing loops on time when CLEC customers request standard installation intervals. For all submeasures with the exception of those concerning DSL loops without linesharing, this PM is a parity measure. For DSL loops without linesharing this measure is a benchmark measure.

24. Interpretation Issues: Despite the fact that for all submeasures, other than those concerning DSL loops without linesharing, this is a parity measure, E & Y does not include in its list of interpretation issues, interpretation concerns similar to those found for average installation intervals for other loops types. That is E & Y does not indicate that the Company is interpreting "standard" installation intervals differently from what is described in the business rules. Thus, it would appear that the Company is using contradictory methodology when measuring PMs 55 and 56, in the former case asserting that there is no "standard" installation interval for UNE loops and in the later case relying on the standard that it asserts does not exist.

25. Exceptions to Compliance: E & Y states in it's Exceptions to Compliance that "[t]he Company utilized the wrong field to determine the exclusion for customer-requested due dates in excess of the stated time period in the Business Rules" for PM 56 submeasures concerning DSL loops with linesharing. For submeasures concerning DSL loops with linesharing E & Y reports that the Company is establishing an incorrect "standard" interval when including and excluding CLEC orders.[21]

[21] Ehr Phase II Affidavit, Attachment Q, E&Y Exception V.7, at 30.

PM 56.1 – % Installs by CRDD – Loop w LNP

26. Brief Definition: ILL. C.C. No. 20, Part 2, Section 11, Original Sheets 223-224 define PM 56.1, the Percent Installations Completed Within Customer Requested Due Date for Loop with LNP, as:

> Percent installations completed within customer requested due date when the date is later than or equal to the standard offered interval as defined in the telecommunications carrier manual or, if expedited (accepted or not accepted), the date agreed to by the Company.

Thus, according to the Company's business rules, this PM measures whether the Company is installing loops with LNP on time when CLECs request due dates beyond the "standard" installation interval. This measures is a benchmark measure.

PM 58 – % Company Caused Misses

27. Brief Definition: ILL. C.C. No. 20, Part 2, Section 11, Original Sheets 227-229 define PM 58, the Percent Company Caused Missed Due Dates, as:

> Percentage of items where installations are not completed by the negotiated due date.

Thus, according to the Company's business rules, this PM measures whether the Company is causing missed installation due dates. This measure is a parity measure for all submeasures except for submeasures concerning DSL loops without linesharing. For submeasures concerning DSL loops without linesharing the measure is a benchmark measure.

PM 60 – % Misses Due to Lack of Facilities

28. Brief Definition: ILL. C.C. No. 20, Part 2, Section 11, Original Sheets 233-235 define PM 60, the Percent Company Missed Due Dates Due to Lack of Facilities, as:

> Percentage of items with missed committed due dates due to lack of facilities.

Thus, according to the Company's business rules, this PM measures whether the Company is missing installation due dates as a result of lack of facilities. This measure is a parity measure for all submeasures except for submeasures concerning DSL loops without linesharing. For submeasures concerning DSL loops without linesharing it is a benchmark measure. This measures contains submeasures which not only indicate whether committed due dates are being missed, but whether committed due dates are being missed by 30 and/or 90 days.

PM 61 – Average Delay Due to Lack of Facilities

29. Brief Definition: ILL. C.C. No. 20, Part 2, Section 11, Original Sheets 236-238 define PM 61, the Average Delay Days for Missed Due Dates Due to Lack of Facilities, as:

> Average Delay Days for Missed Due Dates Due to Lack of Facilities.

Thus, according to the Company's business rules, this PM measures the average delay caused by missed installation due dates due to lack of facilities. This measure is a parity measure even, in contrast to other measures, for DSL loops without linesharing.

PM 62 – Average Delay Due to Company Causes

30. Brief Definition: ILL. C.C. No. 20, Part 2, Section 11, Original Sheets 239-241 define PM 62, the Average Delay Days for Company Caused Missed Due Dates, as:

> Average calendar days from due date to completion date on Company missed items.

Thus, according to the Company's business rules, this PM measures the average delay caused by Company caused missed installation due dates. This measure is a parity measure even, in contrast to other measures, for DSL loops without linesharing.

PM 63 – % Company Caused Misses > 30 Days

31. Brief Definition: ILL. C.C. No. 20, Part 2, Section 11, Original Sheets 242-244 define PM 63, the Percent Company Caused Missed Due Dates > 30 days, as:

> Percentage of items where installation was not completed greater than 30 days following the due date.

Thus, according to the Company's business rules, this PM measures the number of delays caused by Company missed installation due dates that exceed 30 days. This measure is a parity measure even, in contrast to other measures, for DSL loops without linesharing.

Installation Quality

PM 59 – % Trouble Reports within 30 Days of Install

32. Brief Definition: ILL. C.C. No. 20, Part 2, Section 11, Original Sheets 230-232 define PM 59, the Percent Trouble Reports Within 30 Days (I-30) of Installation, as:

> Percentage of items that receive a network customer trouble report within 30 calendar days of service order completion.

Thus, according to the Company's business rules, this PM measures the number of troubles with newly installed lines. For all submeasures, with the exception of those concerning DSL loops with no linesharing, this is a parity measure. For DSL loops with no linesharing this is a benchmark measure.

Maintenance and Repair Service

PM 65 – Troubles per 100 UNEs

33. Brief Definition: ILL. C.C. No. 20, Part 2, Section 11, Original Sheets 248-250 define PM 65, the Trouble Report Rate, as:

> The number of network customer trouble reports within a calendar month per 100 UNEs.

For all submeasures, with the exception of those concerning DSL loops with no linesharing, this is a parity measure. For DSL loops with no linesharing this is a benchmark measure.

PM 65.1 – Troubles per 100 UNEs No New or Repeat

34. Brief Definition: ILL. C.C. No. 20, Part 2, Section 11, Original Sheets 249-253 define PM 65.1, the Trouble Report Rate Net of Installation and Repeat Reports, as:

The number of customer trouble reports exclusive of installation and repeat reports within a calendar month per 100 UNEs.

For all submeasures, with the exception of those concerning DSL loops with no linesharing, this is a parity measure. For DSL loops with no linesharing this is a benchmark measure.

PM 66 – % Missed Repair Commitments

35. Brief Definition: ILL. C.C. No. 20, Part 2, Section 11, Original Sheets 254-255 define PM 66, the Percent Missed Repair Commitments, as:

Percentage of trouble reports not cleared by the commitment time due to Company reasons.

For all submeasures this is a parity measure.

PM 67 – Mean Time to Restore

36. Brief Definition: ILL. C.C. No. 20, Part 2, Section 11, Original Sheets 256-259 define PM 67, the Mean Time to Restore, as:

Average duration of network telecommunications trouble reports from the receipt of the telecommunications carrier trouble report to the time the trouble report is cleared.

For all submeasures, with the exception of those concerning DSL loops with no linesharing, this is a parity measure. For DSL loops with no linesharing this is a benchmark measure.

PM 68 – % Out of Service < 24 Hours

37. Brief Definition: ILL. C.C. No. 20, Part 2, Section 11, Original Sheet 260 defines PM 68, the Percent Out of Service (OOS) < "24" Hours, as:

> Percent of OOS trouble reports cleared in less than 24 hours.

This is a parity measure.

PM 69 – % Repeat Reports

38. Brief Definition: ILL. C.C. No. 20, Part 2, Section 11, Original Sheets 261-263 define PM 69, the Percent Repeat Reports, as:

> Percentage of network customer trouble reports received within 30 calendar days of a previous customer trouble report.

This is a parity measure for all submeasures with the exception of those concerning DSL loops with no linesharing. For DSL loops with no linesharing this is a benchmark measure.

FMOD Process

PM CLEC WI 6 – Form A On Time

39. Brief Definition: ILL. C.C. No. 20, Part 2, Section 11, Original Sheets 374-375 define PM CLEC WI 6, the FMOD Process: Percent Form A Received Within the Interval Ordered by the Commission, as:

> Measures the percentage of FMOD orders where Form A is issued within the interval ordered by the Commission.

The Company sends requesting CLECs Form A notifications when there is potential for delay in installation because the order may require work beyond simple modifications. This is a benchmark measure.

PM CLEC WI 7 – Forms B, C, D and E On Time

40. Brief Definition: ILL. C.C. No. 20, Part 2, Section 11, Original Sheets 376-377 define PM CLEC WI 7, the FMOD Process: Percent Form B, C, D, and/or E are issued within 72 hours of Form A, as:

> Measures the percentage of FMOD orders where Forms B, C, D, and/or E are issued within 72 hours of Form A.

The Company sends requesting CLECs Forms B, C, D, and/or E to notify them of the action necessary to complete the order (e.g., whether a simple or complex modification is necessary). This is a benchmark measure.

PM CLEC WI 8 – Form B FOC with Due Date On Time

41. Brief Definition: ILL. C.C. No. 20, Part 2, Section 11, Original Sheets 378-379 define PM CLEC WI 8, the FMOD Process: From B Percent return FOC with new due date within 24 hours, as:

> Form B is for Complex modifications. This measures the percent of time the Company issues the FOC with the new due date within:
>
> > A) 24 hours of the Company's receipt of the telecommunications carrier authorization of the complex modification charges; or
> > B) if no confirmation of Form B is required from the telecommunications carrier, within 24 hours of Form B being sent.

This is a benchmark measure.

PM CLEC WI 9 – Form C Quote On Time

42. Brief Definition: ILL. C.C. No. 20, Part 2, Section 11, Original Sheets 380-381 define PM CLEC WI 9, the FMOD Process: Form C Percent return quote within the interval ordered by the Commission, as:

Form C involves orders where provisioning is through ILDC or RSU. This measures the percentage of orders involving Form C where the Company returns the quote for the work within the interval ordered by the Commission.

This is a benchmark measure.

PM CLEC WI 11 – FMOD Due Dates Met

43. Brief Definition: ILL. C.C. No. 20, Part 2, Section 11, Original Sheets 382-384 define PM CLEC WI 11, the FMOD Process: Forms B, C, D – percentage of due dates met, as:

Measures the percentage of due dates met when FMOD process is invoked.

This is a benchmark measure.

Checklist Item 1- Interconnection

Interconnection Trunks

Maintenance and Repair

44. The PMs measuring maintenance and repair performance for Interconnection Trunks are PM 65-16 (Trouble Report Rate – Interconnection Trunks), PM 65.1-16 (Trouble Report Rate Net of Installation and Repeat Reports – Interconnection Trunks), and PM 69-16 (Percent Repeat Reports – Interconnection Trunks). These PMs indicate that the CLECs receive high quality post provision interconnection trunk service and that interconnection maintenance and repair service from the Company is meeting parity standards.

Summary and Recommendation

45. Based on the performance data submitted by the Company, the Commission should find that the Company is providing interconnection trunk transport maintenance and repair service in accordance with the requirements of Section 271(c)(2)(B)(i) of the Telecommunications Act of 1996 ("1996 Act").

Checklist Item 4 – Unbundled Local Loops

Unbundled Stand-Alone DSL Loops

Installation Timeliness

46. Stand-alone DSL loops are divided into two general types: those that require conditioning and those that do not. SBC Illinois does not provide conditioned loops to its affiliate while it does provide loops without conditioning to its affiliate.[22] Thus, performance in provisioning stand-alone DSL loops with non conditioning can be compared not only to the established benchmarks, but to service being provided to the Company's affiliate. PMs 55.1-04 (Average Installation Interval – DSL – No Linesharing – Without Conditioning) and 56-12.2 (Percent Installations Completed Within the Customer Requested Due Date – DSL – No Linesharing – Without Conditioning) each indicate that the Company is providing service to CLECs that is not at parity with the service it provides to its affiliate.

47. The differences between the service provided to the Company's affiliate and to CLECs are not trivial. For example in the September, October and November of 2002 the average installation intervals for stand-alone DSL

loops without conditioning provided to CLECs were 4.90, 5.03, and 4.87 days respectively, while the average installation intervals for stand-alone DSL loops without conditioning provided to the Company's affiliate were 0.67, 3.00, and 1.00 days respectively.[23]

48. Similarly, the Company completed 100% of installations by the customer requested due date for stand-alone DSL loops without conditioning for its affiliate in both September and November of 2002, but provided installations by the customer requested due date for CLECs 98.98%, 98.98%, and 98.27% of the time for CLECs in September, October, and November of 2002.[24] While the Company provisioned CLEC orders by the requested due dates a high percentage of the time, the high percentage lags behind the Company's performance in meeting its affiliates requested due dates.

49. The disparity between the Company's installation provisioning to CLECs and to its own affiliate, as measured by average installation intervals and installations completed by the customer requested due dates, does not occur with respect to stand-alone DSL loops with conditioning. No disparity occurs because the Company data indicates that it does not provision stand-alone DSL loops with conditioning for its affiliate.[25]

50. PMs 58-04 (Percent Ameritech-Caused Missed Due Dates – DSL – No Linesharing) and 60-02.1 (Percent Missed Due Dates Due to Lack of Facilities – DSL – No Linesharing) do not distinguish between stand-alone DSL loops with conditioning and stand-alone DSL loops without conditioning, presumably including both. This aggregation impairs the ability of the data to identify disparities in installation provisioning to CLECs and to the Company's

[22] The performance measurement data for Performance Measures ("PMs") 55.1-03 and 56-12.1 contained in Ehr Attachment B indicates that Ameritech did not provide conditioned stand-alone loops to its affiliate in the period beginning January 2002 and ending November 2002.
[23] Ehr Attachment B, PM 55.1-04.
[24] Id., PM 56-12.2.
[25] Id., PMs 55.1-03 and 56-12.1.

affiliate. However, with respect to PMs 58-04 and 60-02.1, the disparity between the Company's installation provisioning to CLECs and to its own affiliate continues to appear.

51. The Company did not cause any due dates in September, October, or November of 2002 to be missed when installing stand-alone DSL for its affiliate, but caused missed due dates 0.81%, 1.00%, and 1.93% of the time when installing stand-alone DSL loops for CLECs.[26] Mr. Ehr notes that "performance results for PM 63-02 (Percent Ameritech-Caused Missed Due Dates Greater Than 30 Days – DSL – No Linesharing) indicate that none of these missed due dates resulted in a delay of installation beyond 30 days."[27] However, what Mr. Ehr overlooks with his observation is that while CLEC delays may not have exceeded 30 days the Company caused missed due dates and delays in installation when provisioning for CLECs and did not miss due dates or cause any delays in installation when provisioning for its affiliate.

52. The Company missed no due dates due to a lack of facilities in September, November, or December when providing stand-alone DSL loops to its affiliate but missed 0.80%, 0.89%, and 0.76% of due dates in September, November, and December, respectively, when providing stand-alone DSL loops to CLECs.[28] Again, while the Company provisioned CLEC orders on time a high percentage of the time (in fact missing no CLEC due dates by more than 30 days due to a lack of facilities), the high percentage again lags behind the Company's performance in meeting its affiliates requested due dates.[29]

53. The data presented in Ehr Attachment B indicates a clear disparity between the Company's installation provisioning to CLECs and to its own affiliate. Nevertheless the business rules that establish installation performance

[26] Id., PM 58-04.
[27] Ehr Phase II Affidavit at ¶ 103.
[28] Ehr Attachment B, PM 60-02.1.
[29] Id, PMs 60-02.2 and 60-02.3.

standards for each of these stand-alone DSL PMs require the company to meet benchmarked performance when provisioning to CLECs rather than to provide service at parity with service provided to it's affiliate. The Company has, with respect to its installation provisioning of stand-alone DSL to CLECs, met these benchmarks.

Installation Quality

54. As noted by Mr. Ehr "[30]SBC Illinois has met the 6% benchmark for PM 59-04 (Percent Trouble Reports Within 30 Days of Installation – DSL – No Linesharing) in each of the three months ending with November 2002." Again, however, while the Company has met the benchmark for this measure, there is a disparity between service provided to CLECs and that provided to the Company's affiliate. For example, in December 2001, January 2002 and February 2002 the CLEC percent trouble reports equaled 4.71%, 3.16% and 3.37%, respectively while the Company's affiliate percent trouble reports equaled 2.89%, 1.62%, and 0.63%, respectively.[31] In recent months, however, the Company appears to have corrected this problem and the disparity has reversed with the Company providing relatively much worse service to it's affiliate.

Maintenance and Repair Service

55. The PMs measuring maintenance and repair performance for stand-alone DSL loops are PM 65-04 (Trouble Report Rate – DSL – No Linesharing), PM 65.1-04 (Trouble Report Rate Net of Installation and Repeat Reports – DSL – No Linesharing), PM 67-04 (Mean Time to Restore – Dispatch – DSL – No Linesharing), PM 67-19 (Mean Time to Restore – No Dispatch – DSL – No Linesharing), and PM 69-04 (Percent Repeat Reports – DSL – No

[30] Ehr Phase II Affidavit at ¶ 116.
[31] Ehr Attachment B, PM 59-04.

Linesharing). For all of these measures the Company meets the benchmarks included in its business rules for September through November of 2002.

56. With respect to PMs 65-04 (Trouble Report Rate – DSL – No Linesharing), 65.1-04 (Trouble Report Rate Net of Installation and Repeat Reports – DSL – No Linesharing). PM 67-19 (Mean Time to Restore – No Dispatch – DSL – No Linesharing) and PM 69-04 (Percent Repeat Reports – DSL – No Linesharing) the data indicates that the Company is providing maintenance and repair to its affiliate as good or better than it does to CLECs. However, PM 67-04 (Mean Time to Restore – Dispatch – DSL – No Linesharing) indicates that when dispatch is required CLECs stand-alone lines are out of service on average longer than the Company affiliate is out of service. In such cases CLECs were out of service on average for 7.24, 5.69, and 5.72 hours in September, October and November of 2002, while the Company's affiliate was out of service on average for 4.16, 4.24, and 4.00 hours, respectively.

FMOD Service

57. With respect to stand-alone DSL loops, the PM data indicates that the Company's affiliate has not received any notifications indicating that a no facilities available situation exists (FMOD Form A) whereas CLECs have.[32] This distinction is important because the Company is not sending Form A notifications to CLECs in a timely manner. PM C WI 6 – 02 (Percent Form A Within Interval – DSL Loops without Linesharing) indicates that the Company failed to send 95% of Form A notifications within the 24 business hour benchmark. The Company sent only 93.48% and 92.77% of Form As on time in October and November of 2002. Furthermore the Company's performance in returning Form As steadily declined in the second half of 2002.[33]

[32] Ehr Attachment B, PM C WI 6 - 02.
[33] Id.

58. When the Company fails to provide timely Form A notifications CLECs may not be able to notify their customers of related delays in a timely manner. Thus, the Company's failure to send timely notifications may negatively affect CLEC customer satisfaction and impair CLECs' ability to compete in Illinois.

59. When following up with information on the type of modification necessary the Company was much better in providing notification when "simple" modifications were required (FMOD Form D). PM – C WI 7-03.2 (Percent Form D Within 72 Hours – DSL Loops without Linesharing) indicates the Company has provided Form D notifications with 72 hours for the period beginning in December of 2001 and ending in November of 2002.

60. The Company has been slightly less successful in sending notifications indicating that "complex", "IDLC/RSU" based, or "New Build" modifications are required (FMOD Forms B, C and E, respectively).[34] PM – C WI 7-01.2 (Percent Form B Within 72 Hours – DSL Loops without Linesharing) indicates that the Company returned Form B notifications within 72 hours at least 95% of the time in September and November of 2002, but only returned Form B notifications within 72 hours 86.67% of the time in October of 2002. However, PM – C WI 8-02 (Percent Form B Return FOC with New Due Date Within 24 Hours – DSL Loops without Linesharing) indicates that when a CLEC determines to continue with a complex modification the Company returns Firm Order Confirmations (FOCs) with new due dates on time 100% of the time. PM C WI 7-02.2 (Percent Form C Within 72 Hours – DSL Loops without Linesharing) indicates the Company sent no FMOD Form Cs in the period beginning in December 2001 and ending in November 2002. The few Form

[34] CLEC Online contains a document entitled "Unbundled Network Element Facility Modification & Construction Policy – Issue 4.4, August 2001" which describes the FMOD process. In general simple modifications are those that "represent an effort above and beyond routine activities to provision a UNE". Complex modification (of which IDLC/RSU and New Build modifications are special cases) is "modification of existing facilities that requires: design engineering and equipment ordering, delivery, and installation."

Es sent by the Company were as indicated by PM C WI 7-04.2 (Percent Form C Within 72 Hours – DSL Loops without Linesharing) sent on time.

61. The PMs above indicate that after initial notification that a no facilities available situation exists the Company generally follows up with detail in a timely manner. However, there is generally insufficient data to indicate whether the Company is meeting due dates when the FMOD process is invoked. PM C WI 11-01.2 (Percent FMOD Due Dates Met Following Form B – DSL Loops without Linesharing) indicates the Company had problems provisioning only one order in the period beginning in September 2002 and ending in November 2002. While this one observation caused the Company to miss its benchmark in October 2002, a single miss is insufficient evidence to conclude that the FMOD provisioning process is for stand-alone DSL loops flawed.[35]

Summary and Recommendation

62. The data presented in Ehr Attachment B indicates a clear disparity between the Company's stand-alone DSL installation provisioning to CLECs and to its own affiliate. Such disparity in provisioning may impair CLECs ability to compete with the Company affiliate in the provision of service requiring the use of the Company's stand-alone DSL UNEs. However, the Company is meeting the benchmarks established in its business rules for provisioning of stand-alone DSL to CLECs and is in many cases surpassing the established benchmarks.

63. I have identified a potential deficiency in the Company's provisioning of stand-alone DSL service so that the Company can address this problem if it desires

[35] Ehr Attachment B, PMs C WI 11 – 02.2 and C WI 11 – 03.2 indicate that no CLEC proceeded with the FMOD process after receiving a Form C or Form D notification for the period beginning in September 2002 and ending in November 2002.

and so that the Commission has the opportunity to require the Company to take corrective action should the Commission desire to do so. However, because the Company is meeting its benchmarks for provision of stand-alone service and the Company's performance with respect to such provisioning is generally very good (relative to the established benchmarks), it is my recommendation that, based on the PM data submitted by the Company, the Commission should find that the Company is providing its stand-alone DSL service, with one exception, in accordance with the requirements of Section 271(c)(2)(B)(iv) of the 1996 Act. The exception to this recommendation concerns the FMOD process and the Company's failure to send FMOD Form A notifications on time. As a prerequisite to a positive consultation with the FCC regarding whether the Company is providing its stand-alone DSL loops in accordance with the requirements of Section 271(c)(2)(B)(iv), the Commission should require the Company to send FMOD Form A notifications on time. The Company should, in its rebuttal affidavits, explain why this problem is occurring and demonstrate that proper steps have been taken to ensure that the problem is corrected on a going forward basis.

Unbundled DSL Loops With Linesharing

Installation Timeliness

64. Like stand-alone DSL loops, DSL loops with linesharing are divided into two general types: those that require conditioning and those that do not. Again, like stand-alone DSL loops, SBC Illinois does not provide conditioned loops to its affiliate while it does provide loops without conditioning to its affiliate. Unlike stand-alone DSL loops, however, the Company does not for the most part provide disparate DSL loop with linesharing service to CLECs and its affiliate. In fact, PMs 55.1-02 (Average Installation Interval – DSL – Linesharing – Without Conditioning) and 56-13 (Percent Installations Completed Within the Customer Requested Due Date – DSL –Linesharing –

Without Conditioning) indicate that the Company is providing DSL loops with linesharing service on time to CLECs as often or more often than it provides them on time to its affiliate.

65. The business rules for DSL loops with linesharing require the Company to provide DSL loops to CLECs at parity with provisioning to the Company's affiliate. Therefore, the fact that the Company's affiliate does not purchase DSL loops with linesharing with conditioning means that there is no standard the company must meet with respect to PMs 55.1-01 (Average Installation Interval – DSL –Linesharing – With Conditioning).[36] On average, for the period beginning in December 2001 and ending in November of 2002 it took the company on average 10.30 days to install DSL with linesharing with conditioning for CLECs, and on average less than 10 days in the period beginning September 2002 and ending November 2002. In the absence of a company equivalent, a reasonable benchmark would be the benchmark established for installation of DSL without linesharing with conditioning which is 10 days. Measuring performance against the benchmarks established for DSL without linesharing with conditioning the Company's performance with respect to PM 55.1-01, which measures performance with respect to DSL with linesharing with conditioning, does not require corrective action.

66. PMs 58-03 (Percent Ameritech-Caused Missed Due Dates – DSL – Linesharing) and 60-01.1 (Percent Missed Due Dates Due to Lack of Facilities – DSL –Linesharing) indicate that the company is not missing due dates because of Company causes or lack of facilities more frequently for CLECs than it does for itself or its affiliate. PM 63-01 (Percent Ameritech-Caused Missed Due Dates Greater Than 30 Days – DSL –Linesharing) and PM 60-01.2 (Percent AIT Missed Due Dates Due to Lack of Facilities – DSL – Linesharing) show that the company has not caused a missed due date or missed a due date for lack of facilities by more than 30 days for CLECs or for

[36] Id. , PM 55.1-01.

its affiliate. PM 62-02 (Average Delay Days for AIT Caused Missed Due Dates – DSL – Linesharing) indicates that delay days caused by Company caused missed due dates for CLECs are approximately equal to delay days caused by Company caused missed due date for the Company's affiliate.

67. The PMs measuring installation timing for DSL with linesharing indicate that the Company is providing installation of DSL service to CLECs at parity with the installation of DSL service the Company provides to itself and its affiliate.

Installation Quality

68. While the Company is providing installation of DSL with linesharing on time the quality of provisioning is very poor. PM 59-03 (Percent Trouble Reports Within 30 Days of Installation – DSL –Linesharing) reveals that CLECs have had troubles shortly after installation of their DSL lines with linesharing much more frequently than has the Company affiliate. For example, in September, October, and November of 2002 the CLEC percent trouble reports equaled 2.97%, 5.41%, and 3.51%, respectively, while the Company's affiliate percent trouble reports equaled 1.55%, 1.49%, and 1.29%, respectively.[37] Further as Ehr Attachment B, PM 59-03 reveals, the Company's service in this respect has declined in recent months indicating a problem that is increasing rather than diminishing.

Maintenance and Repair

69. The PMs measuring maintenance and repair performance for DSL loops with linesharing are PM 65-03 (Trouble Report Rate – DSL –Linesharing), PM 65.1-03 (Trouble Report Rate Net of Installation and Repeat Reports – DSL – Linesharing), PM 67-03 (Mean Time to Restore – Dispatch – DSL – Linesharing), PM 67-18 (Mean Time to Restore – No Dispatch – DSL –

[37] Ehr Attachment B, PM 59-03.

Linesharing), PM 69-03 (Percent Repeat Reports – DSL –Linesharing), and PM 66-03 (Percent Missed Repair Commitments – DSL – Linesharing). With the exception of PM 69-03, all of the maintenance and repair performance measures indicate that the Company is not providing maintenance and repair service at parity.

70. As Mr. Ehr notes, the CLEC trouble report rate exceeds the SBC Illinois' affiliate trouble report rate by 0.05, 0.37, and 0.21 reports per 100 loops in September, October and November of 2002, respectively.[38] These differences are not – as implied by Mr. Ehr's testimony – insignificant. According to the PM data, the trouble reports per hundred loops for CLECs were approximately double the trouble reports for the Company's affiliate in October and November of 2002, and the Company's service as measured by PM 65-03 has markedly deteriorated in the second half of 2002.[39]

71. Similarly, while Mr. Ehr notes that the Company fails to meet parity requirements for 65.1-03 (Trouble Report Rate Net of Installation and Repeat Reports – DSL –Linesharing), he contends that the differences are "minor".[40] Again, however, Mr. Ehr fails to note that the trouble report rates for CLECs were approximately double the trouble report rates for the Company's affiliate in September, October and November of 2002 and that the Company's service as measured by PM 65.1-03 has markedly deteriorated in the second half of 2002.

72. PM 67-18 (Mean Time to Restore – No Dispatch – DSL –Linesharing) further indicates a disparity between service provided to the Company's affiliate and service provided to CLECs. Mean restorations times in September, October, and November of 2002 were 7.76, 5.27, and 3.88 hours for service provided to CLECs while they were 3.65, 2.61, and 3.12 hours for service provided to

[38] Ehr Phase II Affidavit at ¶ 120.
[39] Ehr Attachment B, PM 65-03.

the Company's affiliate. Mr. Ehr notes this problem, but indicates only that "SBC Illinois' Network organization is actively engaged in efforts to provide additional monitoring of linesharing trouble reports so that the durations are reduced; improvement in results is expected in the very near future."[41]

73. PM 69-03 (Percent Repeat Reports – DSL – Linesharing) indicates that the Company is providing maintenance and repair to address repeat reports that is at near parity with that provided to affiliates. However, for September 2002 the company reports a repeat trouble report rate for CLECs of 5.33% compared to a repeat trouble report rate for its affiliate of only 3.18%, and for October 2002 the Company reports a repeat trouble report rate for CLECs of 7.09% compared to a repeat trouble report rate for its affiliate of only 5.11%. The size of the disparity in trouble report rates indicates that the Company is not providing service at parity.

74. PM 67-03 (Mean Time to Restore – Dispatch – DSL –Linesharing) indicates that the Company took longer to restore service to CLECs than it did to restore service to its affiliate. In September, October, and November of 2002, the mean times to restore CLEC service were 12.48, 8.38, and 10.87 hours while the mean times to restore the Company affiliate's service were 7.69, 6.62, and 9.07 hours.

75. PM 66-03 (Percent Missed Repair Commitments – DSL – Linesharing) again indicates that the company is not providing maintenance and repairs to CLECs of the same quality that it provides to its affiliate. Mr. Ehr dismisses these results arguing that "…just 9 repair commitments were missed in September and 10 in October for trouble reports generated by CLECs' line shared DSL loops."[42] What Mr. Ehr fails to recognize is that there were only 75 and 127 trouble reports generating these repair commitments in

[40] Ehr Phase II Affidavit at ¶ 121.
[41] Ehr Phase II Affidavit at ¶ 123, footnote 49.

September and October of 2002.[43] Thus the company missed 12.00% and 7.87% of its repair commitments in these months. In comparison the company only missed 4.62% and 2.19% of repair commitments for its affiliate in these months.

76. The PMs measuring maintenance and repair service for DSL with linesharing indicate that the Company is not providing service to CLECs at parity with the service provided to its affiliate.

FMOD Service

77. No CLECs requesting DSL loops with linesharing were sent any notifications indicating that a no facilities available situation exists (FMOD Form A).[44] Thus, there is no evidence to indicate whether the FMOD process is or is not working with respect to DSL loops with linesharing.

Summary and Recommendation

78. The PMs measuring provisioning of DSL with linesharing indicate that the Company generally installs DSL with linesharing for CLECs in a timeframe similar to the time frame in which the Company install DSL with linesharing for its affiliate. Installation quality and repair and maintenance of installed DSL loops with linesharing, however, is not provided at parity as indicated by the fact that the Company is not meeting parity criteria with respect to submeasures 59-03, 65-03, 65.1-03, 67-03, 67-18, and 66-03. Thus, the Company appears to provide better maintenance and repair service to its affiliate than it does to CLECs.

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[42] Ehr Phase II Affidavit at ¶ 126.
[43] Ehr Attachment B, PM 66-03
[44] Ehr Attachment B, PM C WI 6 - 01.

79. Mr. Ehr indicates that the Company is working to correct this situation. However, the data presented by the Company indicate there is a significant disparity in the quality of, and repair and maintenance of, DSL loops with linesharing provided to CLECs relative the quality and repair and maintenance of DSL loops with linesharing provided to the Company's affiliate. As a prerequisite to a positive consultation with the FCC regarding whether the Company is provisioning its DSL loops with linesharing in accordance with the requirements of Section 271(c)(2)(B)(iv), the Commission should require the Company to provide DSL with linesharing loop quality and maintenance and repair service to CLECs that is at least as good as the loop quality and maintenance and repair service the Company provides to it's affiliate. The Company should, in it's rebuttal affidavits, explain why these problems are occurring and demonstrate that proper steps have been taken to ensure that these problems are corrected on a going forward basis.

Unbundled Voice Grade Loops

Installation Timeliness

80. PMs 55-01.1 (Average Installation Interval – 2-Wire Analog Loops – 1-10), 55-01.2 (Average Installation Interval – 2-Wire Analog Loops – 11-20) and 55-01.3 (Average Installation Interval – 2-Wire Analog Loops – 20+) indicate that the Company's provisioning process for 2-Wire Analog Loops is deficient. Mr. Ehr does not address these problems in his Affidavit, examining only selected PMs and presenting an incomplete picture of the Company's performance.[45] For example, Mr. Ehr does not address PM 55-01.3, a measure where the Company failed parity standards in one of two months for which the Company provided performance measurement data. Although Mr. Ehr provides three-month average installation intervals for PM 55-01.1 which indicates that the

[45] Ehr Phase II Affidavit at ¶ 157.

installation intervals for CLEC with 1-10 loops in the order were shorter than for SBC retail customers, he fails to provide a three-month average installation interval for PM 55-01.2. Ehr Attachment A reveals that the three-month average installation interval for CLEC orders with 11-20 loops were longer than for SBC retail customers with orders of 11-20 loops.

81. Overall there were a cumulative total of 8 monthly parity comparisons for the PMs measuring average installation intervals: PMs 55-01.1, 55-01.2, and 55-01.3. The Company failed to provide installation at parity for three of the eight monthly comparisons. In two cases these failures were very large. In September 2002 the average installation interval for CLECs with orders of 11-20 loops was 18.77 days compared to just 7.49 days for the Company's retail customers. Similarly, in November 2002 the average installation interval for CLECs with orders of 20+ loops was 10 days compared to just 5.79 days for the Company's retail customers. In two cases, for PM 55-01.1 and PM 55-01.3, the failures were in November, indicating that the problem is more severe in recent months.

82. Because the parity standard reflected in the data is very lax, the Company's failure to provide 2-wire analog loop installations at parity potentially signals very poor provisioning of 2-wire loops. For example, in a recent release the FCC reported that "average residential installation intervals for individual companies ranged from a low of 0.6 business days to a high of 3.2 business days in 2001."[46] The average installation interval for 2-wire analog loops provided to CLECs in the period between September 2002 and November 2002 ranges from a low of 4.68 days to a high of 18.77 days, a range far outside the company averages reported by the FCC. Furthermore, the benchmark measure referenced in the Company's business rules are 3 days for orders of 1-10 loops, 7 days for orders of 11-20 loops, and 10 days for orders of 20+ loops. These are the benchmarks by which service is

[46] FCC Releases Report on Quality of Service of Local Phone Companies, Released January 30, 2003.

measured in Michigan, Indiana, Wisconsin, and Ohio.[47] For orders of 1-10 loops and orders of 11-20 loops the Company misses these benchmarks in all months between September 2002 and November 2002. For orders of 20+ loops the Company matches the benchmark measure exactly in October and November of 2002.[48] The importance of these comparisons is that they suggest that the Company's parity provisioning standard is lax and that, consequently, the Company must perform very badly in order to fail to meet the lax standard. The PM data indicates that the Company's level of performance fell below the lenient floor in September and November of 2002.[49]

83. PMs 56-01.1 (Percent Installations Completed Within the Customer Requested Due Date – 2-Wire Analog – 1-10), 56-01.2 (Percent Installations Completed Within the Customer Requested Due Date – 2-Wire Analog – 11-20) indicate that the Company performed much closer to parity when responding to customer requested due dates beyond the standard intervals. In this case the company generally met customers requested due dates. However, it did fail to meet a significant percentage, 38.27%, for orders of 11-20 lines in September of 2002. The Company also missed 13.51% of customer requested due dates in November of 2002, but benefited with respect to the PM 56-01.2 parity test from its poor retail performance. As Ehr Attachment B reveals, the problems the Company is experiencing with respect to meeting customer requested due dates for orders of 11-20 loops appear to be of recent vintage, indicating that this is an emerging rather than a waning problem.

[47] Response to Staff Data Request JZ.1.J. See Schedule 32.01.
[48] Ehr Phase II Affidavit, Attachment B, PM 55.- 01.3 indicates that there were no CLEC orders for 20+ loops in September 2002.
[49] The explanation of PM 55 I have provided above explains that this measure may not accurately reflect the Company's service provisioning performance. However, the Company has offered no evidence to suggest that the parity criteria failures reflected in its submitted data result from anything other than poor performance. Clearly, Staff's recommendation would be better informed if the Company brought forth evidence that clarified whether its failures with respect to PM 55 are the result of poor company performance or whether they are attributable to PM design problems.

84. The company's performance with respect to loops with LNP was much better when measured relative to the benchmarks for these measures contained in the Company's business rules. As indicated in the Company's business rules the Company includes in average installation intervals all orders for service where the service request specifies a standard installation interval or an interval not more than one day longer than the standard installation interval.[50] The information contained in Ehr Attachment B indicates that the Company met the standard interval plus one-day benchmark in all months for all measures in 19 of 21 monthly comparisons. In October 2002 the company narrowly missed the benchmark for average installation of Non-CHC – Loops – 11-20 with LNP of 8 days, providing service on average in 8.19 days. In November 2002 the Company missed the benchmark for average installation of CHC - Loops with LNP - 21+ of 11 days, providing service on average in 14 days.

85. PMs 58-05 (Percent Ameritech-Caused Missed Due Dates – 8.0 dB Loops without Test Access), 63-03 (Percent Ameritech-Caused Missed Due Dates > 30 days – 8.0 dB Loops without Test Access), 60-03.1 (Percent Missed Due Dates Due to Lack of Facilities – 8.0 dB Loops without Test Access), and 60-03.2 (Percent Missed Due Dates Due to Lack of Facilities > 30 days – 8.0 dB Loops without Test Access) all indicate that the company is not missing due dates more frequently for CLECs than it does for its retail customers. In fact, the data indicates that the Company misses many more retail customer due dates than CLEC customer due dates. PM 62-03 (Average Delay Days for AIT Caused Missed Due Dates – 8.0 dB Loops without Test Access) indicates that delay days caused by Company caused missed due dates equaled 11.94 days in September 2002 for CLECs and equaled only 6.01 days in September 2002 for the Company's retail customers. Relative performance improved,

[50] ILL. C. C. NO. 20, Part 2, Section 11, Original Sheet No. 214.

however, in October and November 2002 with the Company's retail customers receiving longer delays than CLEC customers.

86. The PMs measuring installation timing for voice grade loops provide mixed evidence on the whether the Company is providing voice grade loops in a nondiscriminatory manner that allows competitors to compete in Illinois. While there is some evidence that the Company is meeting its due dates, other evidence suggests significant delays in CLEC installation provisioning.

Installation Quality

87. PM 59-05 (Percent Trouble Reports Within 30 Days of Installation – 8.0 dB Loops without Test Access) reveals that CLECs have had troubles with 5.43%, 4.29%, and 4.26% of recently installed voice grades loops in September, October, and November, respectively.[51] The Company does, however, meet parity criteria for PM 59-05 because it had many more troubles with recently installed voice grade loops supplied to its retail customers in these months.

Maintenance and Repair

88. The PMs measuring maintenance and repair performance for voice grade loops are PM 65-05 (Trouble Report Rate – 8.0 dB Loops without Test Access), PM 65.1-05 (Trouble Report Rate Net of Installation and Repeat Reports – 8.0 dB Loops without Test Access), PM 67-05 (Mean Time to Restore – Dispatch – 8.0 dB Loops without Test Access), PM 67-20 (Mean Time to Restore – No Dispatch – 8.0 dB Loops without Test Access), PM 69-05 (Percent Repeat Reports – 8.0 dB Loops without Test Access), and PM 66-05 (Percent Missed Repair Commitments – 8.0 dB Loops without Test Access). With the exception of a narrow miss in September 2002 for PM 65-

[51] Ehr Attachment B, PM 59-05.

05, all of these maintenance and repair performance measures indicate that the Company is providing maintenance and repair service at parity. Again, however, in some instances the Company meets parity standards simply because of its poor retail performance. For example, the data for PM 69-05 indicates that the Company had over 6% repeat trouble reports for CLEC loops in each of September, October, and November of 2002. However, the Company had over 10% repeat trouble reports for retail loops in each of these months.

FMOD Service

89. PMs C WI 6 – 04 (Percent Form A Within Interval – 8.0 dB Loops without Test Access), C WI 7-01.4 (Percent Form B Within 72 Hours – 8.0 dB Loops without Test Access), C WI 7-02.4 (Percent Form B Within 72 Hours – 8.0 dB Loops without Test Access), C WI 7-03.4 (Percent Form D Within 72 Hours – 8.0 dB Loops without Test Access), C WI 8-04 (Percent Form B Return FOC with New Due Date Within 24 Hours – 8.0 dB Loops without Test Access), and C WI 9-04 (Percent Form C Return FOC with New Due Date Within 24 Hours – 8.0 dB Loops without Test Access) all indicate that the Company returns FMOD notifications related to voice grade loops in a timely manner.

90. PM C WI 11-03.4 (Percent FMOD Due Dates Met Following Form D – 8.0 dB Loops without Test Access) indicates the Company has met due dates on the few voice grade orders requiring simple modifications. However, PM C WI 11-01.4 (Percent FMOD Due Dates Met Following Form B – 8.0 dB Loops without Test Access) indicates the Company is having significant problems meeting due dates for voice grade orders requiring complex modifications. Throughout the period beginning in December of 2001 and ending in November of 2002 the company has missed due dates a high percentage of the time, including missing as many as 25% of due dates in April and September of 2002.

91. When the Company misses an installation due date for a CLEC customer CLEC customer satisfaction may be affected. Therefore, the Company's failure to meet FMOD due dates for complex orders may impair CLECs' ability to compete in Illinois.

Summary and Recommendation

92. The PM data submitted by the Company indicates that the Company is not always meeting parity criteria for installation timeliness when installing voice grade loops. For the three months ending in November of 2002, the Company failed to meet parity criteria for PMs 55-01.1, 55-01.2, and 55-01.3 three out of the eight times parity criteria were evaluated. As reflected in PMs 56-01.1 and 56-01.2 the Company missed parity criteria for meeting non-standard customer requested due dates one out of the six times parity criteria were evaluated. In September of 2002, missed due dates caused a delay in provisioning of CLEC service, measured by submeasure 62-03 that was much longer than missed due date caused delays for the Company's retail customers. Submeasures 58-05 and 60-03.1, however, indicate that the Company is meeting parity standards with respect to Company caused missed due dates and due dates missed due to lack of facilities. With respect to loops with LNP the Company generally met benchmark installation intervals. Installation quality and repair and maintenance of installed voice grade loops is generally provided at parity. The Company is, however, as submeasure C WI 11 – 01.4 indicates, failing parity criteria for meeting due dates for FMOD installations.

93. As a general rule, UNE loops are the network element that is most difficult for competitors to self-supply on a mass-market scale. With the UNE Remand Order the FCC began a process to remove UNE switching from the list of

UNEs.[52] This FCC action has increased the importance of stand-alone UNE loops (loops that are not sold in combination with switching and/or transport) to the success of UNE based local telephone competition.[53] For these reasons it is essential, if competitors are to have the opportunity to compete for local telephone customers in Illinois using stand alone voice grade loops, that SBC Illinois' performance in installing and servicing voice grade loops not impair or impede the ability of competitors to compete. As a prerequisite to a positive consultation with the FCC regarding whether the Company is provisioning its voice grade loop service in accordance with the requirements of Section 271(c)(2)(B)(iv), the Commission should require the Company to correct the voice grade loop provisioning problems identified above, in particular the disparity in average installation intervals and missed customer requested due dates and the problems with provisioning voice grade loops requiring complex facilities modification. The Company should, in its rebuttal affidavits, explain why these problem are occurring and demonstrate that proper steps have been taken to ensure that these problem are corrected and will not recur on a going forward basis.

Unbundled BRI (digital) Loops

Installation Timeliness

94. PM 55-02.1 (Average Installation Interval – Digital Loops – 1-10) indicates that the Company provides digital loops to CLECs and its retail customers at parity. While the average installation intervals for digital loops are significantly longer than the benchmarks listed in the Company's business rules, the Company provides service to its own retail customers that does not meet these benchmarks. Therefore, while the service provided CLECs may

[52] Third Report and Order and Fourth Notice of Proposed Rulemaking in FCC CC Docket No. 96-98, Released November 5, 1999.

not be particularly timely, it is at parity with the service provided the Company's retail customers, and thus meets the performance criteria established in the Company's business rules.[54]

95. PM 56-02.1 (Percent Installations Completed Within the Customer Requested Due Date –Digital Loops – 1-10) also meets parity standards despite missing the 95% benchmark referenced in the Company's business rules in September 2002. Notably the Company did meet the 95% benchmarks in the more recent months of October and November of 2002.

96. PMs 58-06 (Percent Ameritech-Caused Missed Due Dates – BRI Loop with Test Access), 63-04 (Percent Ameritech-Caused Missed Due Dates > 30 days – BRI Loops with Test Access), 60-04.1 (Percent Missed Due Dates Due to Lack of Facilities – BRI Loops with Test Access), and 63-04.2 (Percent Missed Due Dates Due to Lack of Facilities > 30 days – BRI Loops with Test Access) all indicate that the company is not missing due dates more frequently for CLECs than it does for its retail customers and in fact misses many more retail customer due dates. PM 62-04 (Average Delay Days for AIT Caused Missed Due Dates – BRI Loops with Test Access) indicates that delay days caused by the Company missed due dates were much higher on average for BRI Loops provided to the Company's retail customers than they were for BRI Loops provided to CLECs.

97. The PMs measuring installation timing for digital loops provide evidence that the Company is meeting its due dates generally more often for CLECs than the Company does for its retail customers.

Installation Quality

[53] Additional actions from the FCC's current triennial review of UNEs will potentially increase reliance on stand-alone voice grade loops even further. Notice of Proposed Rulemaking in FCC CC Docket Nos. 01-338, 96-98, and 98-147, Released December 20, 2001.

98. The quality of the digital loops being provided by the Company appears to be poor, but better than the quality of digital loops being provided to the Company's retail customers. PM 59-06 (Percent Trouble Reports Within 30 Days of Installation – BRI Loops with Test Access) reveals that CLECs have had troubles with 6.97%, 8.59%, and 7.90% of recently installed digital loops in September, October, and November.[55] However, the Company meets parity criteria, the performance criteria established in the Company's business rules, for PM 59-06 because it had many more troubles with recently installed BRI loops supplied to its retail customers in these months.

Maintenance and Repair

99. The PMs measuring maintenance and repair performance for digital loops are PM 65-06 (Trouble Report Rate – BRI Loops with Test Access), PM 65.1-06 (Trouble Report Rate Net of Installation and Repeat Reports – BRI Loops with Test Access), PM 67-06 (Mean Time to Restore – Dispatch – BRI Loops with Test Access), PM 67-21 (Mean Time to Restore – No Dispatch – BRI Loops with Test Access), PM 69-06 (Percent Repeat Reports – BRI Loops with Test Access). These PMs indicate that the CLEC customers experience more troubles after installation than do the Company's retail customers, but that the Company generally responds to these troubles faster and more effectively than it does to it's retail customers' troubles.

100. PM 65-06 (Trouble Report Rate – BRI Loops with Test Access) indicates that CLECs experienced 0.98, 1.17, and1.10 troubles per 100 lines while the Company's retail customers experienced only 0.67, 0.70, and 0.52 troubles in September, October and November of 2002, respectively. This causes the

[54] Ehr Attachment B, PMs 55-02.2 and 55-02.3 indicate that the Company did not provide any digital loops (11-20) or digital loops (20+) in the period beginning in September 2002 and ending in November 2002.
[55] Ehr Attachment B, PM 59-05.

Company to fail the parity test for PM 65-06, a fact that Mr. Ehr does not address in his analysis.[56]

101. The Company also fails to meet parity criteria for PM 65.1-06 (Trouble Report Rate Net of Installation and Repeat Reports – BRI Loops with Test Access) in November 2002 with the data suggesting that the Company's performance is getting worse over time.[57]

102. PM 67-06 (Mean Time to Restore – Dispatch – BRI Loops with Test Access), PM 67-21 (Mean Time to Restore – No Dispatch – BRI Loops with Test Access), PM 69-06 (Percent Repeat Reports – BRI Loops with Test Access) all indicate that the company responds to troubles following installation better for CLECs than the Company does for its retail customers.

FMOD Service

103. PMs C WI 6 – 05 (Percent Form A Within Interval – BRI Loops with Test Access), C WI 7-01.5 (Percent Form B Within 72 Hours – BRI Loops with Test Access), C WI 7-02.5 (Percent Form B Within 72 Hours – BRI Loops with Test Access), C WI 7-03.5 (Percent Form D Within 72 Hours – BRI Loops with Test Access), C WI 8-05 (Percent Form B Return FOC with New Due Date Within 24 Hours – BRI Loops with Test Access), and C WI 9-05 (Percent Form C Return FOC with New Due Date Within 24 Hours – BRI Loops with Test Access) with one exception all indicate that the Company returns FMOD notifications related to BRI loops in a timely manner.

104. C WI 7-01.5 (Percent Form B Within 72 Hours – BRI Loops with Test Access) indicates the Company failed to return notification of complex modifications within 72 hours 95% of the time in September and October of 2002. However, the Company performance has steadily improved since

[56] Ehr Phase II Affidavit at ¶ 140.

August 2002, and Form Bs were returned on a timely basis in November of 2002.[58]

105. PM C WI 11-03.5 (Percent FMOD Due Dates Met Following Form D – BRI Loops with Test Access) indicates the Company has not had any BRI loops requests requiring simple modification proceed to provisioning. However, PM C WI 11-01.5 (Percent FMOD Due Dates Met Following Form B – BRI Loops with Test Access) indicates the Company is having significant problems meeting due dates for BRI loop orders requiring complex modifications. Throughout the period beginning in December of 2001 and ending in November of 2002 the company has missed due dates a high percentage of the time, including missing as many as 30% of due dates in September of 2002. As explained above, missed installation dates may impair CLECs ability to compete in Illinois.

Summary and Recommendation

106. The evidence regarding the Company's performance in installing and servicing BRI loops indicates that the Company is providing service at parity with respect to installation timeliness and provisioning quality. While the evidence suggests that CLEC customers experience more troubles after installation than do the Company's retail customers, the Company generally responds to these troubles faster and more effectively than it does to it's retail customers' post-installation troubles. Based on the performance data submitted by the Company the Company is provisioning it's standard BRI Loop service in accordance with the requirements of Section 271(c)(2)(B)(iv) of the Telecommunications Act of 1996 ("1996 Act"). With respect to the exception noted above, the data does indicate, however, that the Company is

[57] Ehr Attachment B, PM 65.1-06.
[58] Ehr Attachment B, PM C WI 7-01.5.

not meeting parity standards with respect to meeting due dates associated with BRI loop orders requiring complex modification.

107. As a prerequisite to a positive consultation with the FCC regarding whether the Company is provisioning its standard BRI Loop service in accordance with the requirements of Section 271(c)(2)(B)(iv), the Commission should require the Company to correct the problems it has with provisioning BRI loops requiring complex facilities modification. The Company should, in its rebuttal affidavits, explain why these problem are occurring and demonstrate that proper steps have been taken to ensure that these problem are corrected and will not recur on a going forward basis.

Unbundled DS1 Loops

Installation Timeliness

108. PMs 55-03 (Average Installation Interval – DS1 Loops) indicates that the Company provides DS1 loops to CLECs and its retail customers at parity. While the average installation intervals for DS1 loops are significantly longer than the benchmarks listed in the Company's business rules, the Company provides service to its own retail customers that does not meet these benchmarks. Therefore, while the service provided CLECs may not be particularly timely, it is at parity with the service provided the Company's retail customers and meeting the performance standards established in it's business rules.

109. PM 56-03 (Percent Installations Completed Within the Customer Requested Due Date – DS1 Loops) meets parity criteria.

110. PM 58-08 (Percent Ameritech-Caused Missed Due Dates – DS1 Loops) indicates the Company did not provide service at parity in September 2002, but did so in October and November of 2002. Notably, service provided to CLECs with respect to this measure has not only improved relative to that given to the Company's retail customers, but also in absolute terms in recent months. PM 63-06 (Percent Ameritech-Caused Missed Due Dates > 30 days – DS1 Loops) further indicates that the Company does not cause due date misses for CLEC installations significantly more often than it causes due date misses for it's retail customer installations.

111. Similarly, PM 60-06.1 (Percent Missed Due Dates Due to Lack of Facilities – DS1 Loops) indicates the Company did not provide service at parity in September 2002, but did so in October and November of 2002. Again it is notable that service provided to CLECs with respect to this measure has not only improved relative to that given to the Company's retail customers, but also in absolute terms in recent months. Again, PM 63-06 (Percent Missed Due Dates Due to Lack of Facilities > 30 days – DS1 Loops) further indicates that the Company did not miss due dates for CLEC installations due to lack of facilities significantly more often than it missed installations for it's retail customers for this reason.

112. PM 62-06 (Average Delay Days for AIT Caused Missed Due Dates – DS1 Loops) indicates that there was a significant meltdown in the Company's provisioning in November 2002. Delay days caused by the Company missed due dates averaged 53.29 days for DS1 Loops provided to CLECs and only 5.04 days for DS1 Loops provided to the Company's retail customers in November of 2002.

113. While the PMs measuring installation timing for digital loops provide evidence that the Company is meeting its due dates, in general, equally well for CLECs and for its retail customers, the disparity in average delays

between service provided to CLECs and to the Company's retail customers resulting from Company caused due date misses in November 2002 is extremely large.

Installation Quality

114. PM 59-08 (Percent Trouble Reports Within 30 Days of Installation – DS1 Loops) reveals that CLECs have fewer troubles on average with new DS1 loops than do Ameritech retail customers.

Maintenance and Repair

115. The PMs measuring maintenance and repair performance for DS1 Loops are PM 65-08 (Trouble Report Rate – DS1 Loops), PM 65.1-08 (Trouble Report Rate Net of Installation and Repeat Reports – DS1 Loops), PM 67-08 (Mean Time to Restore – Dispatch – DS1 Loops), PM 67-23 (Mean Time to Restore – No Dispatch – DS1 Loops), and PM 69-08 (Percent Repeat Reports – DS1 Loops). These PMs indicate that the CLECs receive maintenance and repair service from the Company at parity with the Company's retail customers.

116. PM 65-08 (Trouble Report Rate – DS1 Loops) indicates that CLECs experienced 4.50, 5.24, and 3.63 troubles per 100 lines while the Company's retail customers experienced only 3.76, 4.39, and 3.43 troubles per 100 lines in September, October and November of 2002, respectively. From Ehr Attachment B it appears that CLECs experienced a significant increase in troubles beginning in mid-2002, both relative to troubles experienced by the Company's retail customers and absolutely. The information indicates that as of November 2002 the relative disparity had been largely removed. However, with the exception of November 2002, CLECs experienced significantly more

troubles in the second of half of 2002 relative to troubles experienced by the Company's retail customers.[59]

117. The Company met the parity criteria for PM 65.1-08 (Trouble Report Rate Net of Installation and Repeat Reports – DS1 Loops) in September, October and November 2002. However, in absolute terms CLEC post installation trouble reports increased substantially throughout 2002 increasing to levels experienced generally throughout 2002 by the Company's retail customers.

118. PM 67-08 (Mean Time to Restore – Dispatch – DS1 Loops), PM 67-23 (Mean Time to Restore – No Dispatch – DS1 Loops), PM 69-08 (Percent Repeat Reports – DS1 Loops) all indicate that the company responds to troubles following installation at parity.

FMOD Service

119. PMs C WI 6 – 06 (Percent Form A Within Interval – DS1 Loops), C WI 7-01.6 (Percent Form B Within 72 Hours – DS1 Loops), C WI 7-02.6 (Percent Form B Within 72 Hours – DS1 Loops), C WI 7-03.6 (Percent Form D Within 72 Hours – DS1 Loops), C WI 8-06 (Percent Form B Return FOC with New Due Date Within 24 Hours – DS1 Loops), and C WI 9-06 (Percent Form C Return FOC with New Due Date Within 24 Hours – DS1 Loops) with one exception all indicate that the Company returns FMOD notifications related to DS1 loops in a timely manner.

120. C WI 7-01.6 (Percent Form B Within 72 Hours – DS1 Loops) indicates the Company failed to return notification of complex modifications within 72 hours 95% of the time in September and October of 2002. However, the Company

[59] Ehr Attachment B, PM 65.-08.

performance has steadily improved since September 2002 and Form Bs were returned on a timely basis in November of 2002.[60]

121. PM C WI 11-03.6 (Percent FMOD Due Dates Met Following Form D – BRI Loops with Test Access) indicates the Company has not had any DS1 loop requests requiring simple modification proceed to provisioning. However, PM C WI 11-01.6 (Percent FMOD Due Dates Met Following Form B – BRI Loops with Test Access) indicates the Company is having significant problems meeting due dates for BRI loop orders requiring complex modifications. Throughout the period beginning in December of 2001 and ending in November of 2002 the Company has missed due dates a high percentage of the time, including missing as many as 11.54% of due dates in October of 2002. As explained above, failure the Company's failure to install loops on time may impair a CLECs ability to compete in Illinois.

Summary and Recommendation

122. The evidence regarding the Company's performance in installing and servicing DS1 loops indicates that the Company is providing service at parity with respect to installation timeliness, installation quality, and repair and maintenance service. The only anomaly in the information is the extremely large delays to CLEC customers resulting from Company caused missed due dates in November 2002. Mr. Ehr explained that this problem resulted from problems with a single order which was delayed for about 230 days and agreed to research the problem with this order and explain the cause.[61] Submeasure C WI 11-01.5 indicates the Company is missing FMOD installation due dates more often for CLECs than for its own retail customers.

[60] Ehr Attachment B, PM C WI 7-01.5.
[61] Tr. at 3062.

123. As a prerequisite to a positive consultation with the FCC regarding whether the Company is provisioning its DS1 loops in accordance with the requirements of Section 271(c)(2)(B)(iv), the Commission should require the Company to correct the problems it has with provisioning DS1 loops requiring complex facilities modification. The Company should, in its rebuttal affidavits, explain why these problems are occurring and demonstrate that proper steps have been taken to ensure that these problems are corrected and will not recur on a going forward basis.

Checklist Item 5 – Unbundled Local Transport

Unbundled DS1 Dedicated Transport

Maintenance and Repair

124. The PMs measuring maintenance and repair performance for DS1 Dedicated Transport are PM 65-09 (Trouble Report Rate – DS1 Transport), PM 65.1-09 (Trouble Report Rate Net of Installation and Repeat Reports – DS1 Transport), PM 67-09 (Mean Time to Restore – Dispatch – DS1 Transport), PM 67-24 (Mean Time to Restore – No Dispatch – DS1 Transport), and PM 69-09 (Percent Repeat Reports – DS1 Transport). These PMs indicate that the CLECs receive high quality post provision DS1 service and DS1 maintenance and repair service from the Company that is nearly perfect.

Summary and Recommendation

125. Based on the performance data submitted by the Company, the Commission should find that the Company is providing DS1 dedicated transport maintenance and repair service in accordance with the

requirements of Section 271(c)(2)(B)(v) of the Telecommunications Act of 1996 ("1996 Act").

Unbundled DS3 Dedicated Transport

Maintenance and Repair

126. The PMs measuring maintenance and repair performance for DS3 Dedicated Transport are PM 65-14 (Trouble Report Rate – DS3 Transport), PM 65.1-14 (Trouble Report Rate Net of Installation and Repeat Reports – DS3 Transport), PM 67-14 (Mean Time to Restore – Dispatch – DS3 Transport), PM 67-24 (Mean Time to Restore – No Dispatch – DS1 Transport), and PM 69-14 (Percent Repeat Reports – DS3 Transport). These PMs indicate that the CLECs receive high quality post provision DS3 service and DS3 maintenance and repair service from the Company that is nearly perfect.

Summary and Recommendation

127. Based on the performance data submitted by the Company, the Commission should find that the Company is providing DS3 dedicated transport maintenance and repair service in accordance with the requirements of Section 271(c)(2)(B)(v) of the Telecommunications Act of 1996 ("1996 Act").

Checklist Item 6 – Unbundled Local Switching

Summary and Recommendation

128. As Mr. Ehr notes, the performance results included in Ehr Attachments A and B indicate that "Illinois CLECs are not currently purchasing stand-alone

unbundled local switching products from SBC Illinois."[62] Therefore, there is insufficient data to determine whether SBC Illinois provisioning process for stand-alone unbundled local switching is satisfactory. At the same time, there is no evidence to suggest that SBC Illinois provisioning process impairs or impedes CLECs' ability to compete using this product.

V. Phase I Compliance

Checklist Item 2

Tariff and Interconnection Agreement Opt-In

Commission Ordered Action

129. The Commission's Phase I Interim Order in this instant proceeding directs the Company to demonstrate that:

> The UNE offerings contained in its existing interconnection agreements and tariffs can generally be opted-into without unnecessary restrictions.[63]

Company Compliance Filing

130. To address the Commission's concerns Mr. Alexander, the Company compliance affiant for this issue, states that CLECs can "'MFN' into UNE provisions (and legitimately related terms) contained in an approved and effective interconnection agreement in Illinois, or incorporate the relevant tariff provisions into its ICA."[64] Mr. Alexander offers evidence that CLECs have been able to obtain through the opt-in process some, but presumably not all UNE provisions (and legitimately related terms) contained in approved and

[62] Ehr Phase II Affidavit at ¶ 188.
[63] Phase I Interim Order on Investigation, Docket No. 01-0662, at ¶ 713, subsection a.

effective interconnection agreements in Illinois.[65] He does not, however, offer any evidence that CLEC's have been able to incorporate tariff provisions into interconnection agreements.

131. The Company further clarified its opt-in policies in response to Staff data requests.[66] Based upon this clarification I understand the Company's policy to be:

> Requesting carriers, with or without existing effective interconnection agreements, may include, by reference, SBC Illinois tariffed UNEs, inclusive of all UNE rates, terms, and conditions, contained in such tariffs, into their interconnection agreements without restriction. When such tariffs are included by reference the agreement will automatically incorporate any modifications to the tariffed rates, terms, and conditions for the referenced UNEs.
>
> Requesting carriers, with or without existing effective interconnection agreements, may include, UNEs, inclusive of all UNE rates, terms, and conditions contained in existing effective interconnection agreements, into their interconnection agreements with the single restriction that the CLEC must also include any legitimately related terms.

132. Mr. Alexander, subsequent to responding to Staff's data requests, further explained the Company policy as it applies to inclusion of tariffed UNE rates, terms, and conditions. Mr. Alexander explained that the Company will permit carriers to reference SBC Illinois tariffed UNEs in their interconnection agreements, but the Company may not permit UNE rates, terms, and conditions language from the tariff to be directly included into an agreement.[67]

Analysis and Recommendation

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[64] Ehr Phase II Affidavit at ¶ 5.
[65] Id. at ¶ 8.
[66] Response to Staff Data Requests JZ 10.0 and 11.0. See Schedule 32.01.
[67] Tr. at 2702-2703.

133. If my stated understanding of the Company's opt-in policies are correct, then the policies articulated by Mr. Alexander are consistent with the Commission directive in its Phase I Interim Order. If followed, the Company policies articulated by Mr. Alexander permit CLECs in Illinois to include UNE rates, terms, and conditions that this Commission and the FCC have ordered the Company to provide into their interconnection agreements. The Company position that it may not agree to include language from the tariff into its agreement does not prevent CLECs from obtaining UNE rates, terms, and conditions that the Commission has required the Company to provide. By including tariff terms by reference, interconnection agreements will as a general matter automatically update to account for changes to the tariff ordered or permitted to go into effect by the Commission

134. While the Company policies articulated by Mr. Alexander are consistent with the Commission directive in its Phase I Interim Order, articulation of a policy does not ensure that a policy is being followed or will continue to be followed. Therefore, I recommend that the Commission require the Company to provide a written commitment to abide by the opt-in policies described above as a precondition for receiving a positive Section 271 recommendation from the Commission. Such a commitment will ensure that the Company is making available to all carriers in Illinois those UNE rates, terms, and conditions that it has presented as proof of its compliance with Section 271.

EEL Performance Measurement

Commission Ordered Action

135. The Commission's Phase I Interim Order in this instant proceeding directs the Company to provide information that explains how the Company does and

will measure provisioning intervals and service quality for its EELs products and requests Staff to assess this information.[68]

Company Compliance Filing

136. To address the Commission's concerns Mr. Ehr, the Company compliance affiant for this issue, explained that the Company currently measures provisioning of EELs through a number of its current performance measurements and that the Company will measure provisioning of EELs with further specificity in the future.[69]

137. According to Mr. Ehr, the Company currently categorizes its EEL combinations according to the loop component of the EEL and then combines EELS provisioning information with its stand-alone loop information in various performance measures. Mr. Ehr explained that the Company does not collect data that would allow them to separate EEL provisioning information from stand-alone loop information. Because the Company does not have separate EEL provisioning information, the Company was unable to verify that all EELs combinations installed were included in its performance measures.[70]

138. As explained by Mr. Ehr the Company has filed a tariff which revises it's performance measurements to separate the measurement of EELs combinations and stand-alone loop combinations.[71] As Mr. Ehr subsequently explained, for the measurement of EELs, "[t]he provisioning would start on the application date that's applied to the order…" and that the Company system "…when it accepts an order, it establishes an application date…"[72] Mr. Ehr, however, could not provide detail regarding the Company's EELs provisioning practices and their relationship to the Company's proposed EELs

[68] Phase I Interim Order on Investigation, Docket No. 01-0662, at ¶¶ 714-716.
[69] Ehr Phase I Compliance Affidavit at ¶¶ 3 and 9.
[70] Response to Staff Data Request JZ.1.E.x. See Schedule 32.01.
[71] Ehr Phase I Compliance Affidavit at ¶ 9.

performance measurement. Specifically, Mr. Ehr was generally unfamiliar with the EELs certification process the Company requires CLECs to use.[73] The Company did, however, clarify that:

> The PMs that will report EELs will use the time a valid order is received in the PM reporting processes. The "certification" process happens prior to or in parallel with receipt and processing of the order. In both cases, the PM implementation and reported results will reflect the date and time the valid LSR is received as the first point for calculation of performance.[74]

Thus, as confirmed by the Company, any delay in the ability of a CLEC to submit a valid order that results from the Company's certification process will not be measured in the Company's PMs.

Analysis and Recommendation

139. Because the Company cannot supply EELs provisioning information separately from stand-alone loop provisioning information, there is no way to verify whether the Company has measured provisioning of all EELs it has provided to CLECs or to verify that the Company has provided EELs in a manner that will not impair or impede CLECs ability to use EELs to compete in Illinois. The reforms proposed by the Company will, in part, remedy these concerns by separating EELs measurement from stand-alone loop measurement and these changes are consistent with the Commission's directives in the Phase I Interim Order.

140. Mr. Ehr asserts that the proposed tariff changes submitted by the Company are the product of the recently completed six-month collaborative review.[75] Nevertheless, the proposed performance measurement system that the Company will use for EELs is deficient.

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[72] Tr. at 2951 and 2952, respectively.
[73] "I don't have any knowledge on that process of certification that you are speaking about." Tr. at 2951.
[74] Responses to 2/11/03 Workshop Questions Directed to James Ehr, Response 1.
[75] Ehr Phase I Compliance Affidavit at ¶ 9.

141. Accessible Letter CLECAM01-0123 entitled "(ORDERING AND PROVISIONING) Revision of Ordering Process for Special Access to Unbundled Network Element Conversions – Illinois, Indiana, Michigan, Ohio, Wisconsin" states: "To initiate the conversion process, a Telecommunications Carrier (TC)/Competitive Local Exchange Carrier (CLEC) must send the Account Manager a correctly completed certification letter that lists each circuit to be converted and the option from the FCC's Supplemental Order Clarification under which each circuit qualifies" It is my understanding that this process can take up to 15 business days (or possibly longer) and that the Company will not permit CLECs to submit orders (as that term is used by Mr. Ehr) until this certification process is complete. This certification process can represent a significant delay in the EEL provisioning process, presumably a delay that is not experienced by the Company when it provides its own retail services. Therefore, in my opinion this delay has a significant probability of impairing CLECs ability to compete using EELs in Illinois.

142. In order to ensure that the Company is effectively measuring its performance in providing EELs in Illinois, the Company must specifically account for its conversion certification process and any similar certification processes applied to new EELs in its performance measurement system. The Company should explain in it's rebuttal affidavits how it will address this problem so that Staff and Interveners can evaluate the Company's proposed remedy and make an informed recommendation to the Commission.

<u>EEL and UNE-P Rate Clarity</u>

Commission Ordered Action

143. The Commission's Phase I Interim Order in this instant proceeding directs the Company to demonstrate that:

> its UNE "combination rates," i.e., UNE-P and EEL rates, are clearly defined. This might be accomplished by providing examples of typically requested UNE combinations (e.g., common special access to UNE migrations, common new UNE combination requests, common reconfigurations requests, and EELs scenarios that would allow users enough information to determine how Ameritech applies rates to alternative but similar combinations) and explaining how those services and products would be billed under its tariffs and/or interconnection agreements and GIA.[76]

Company Compliance Filing

144. To address the Commission's concerns Mr. Silver, the Company compliance affiant for this issue, provided exhibits that demonstrate how the Company's recurring and non-recurring charges are applied to new EELs combinations and to special access to UNE reconfigurations.[77] Mr. Silver also provided exhibits that demonstrate how the Company's non-recurring charges apply to new UNE-P configurations and to conversions of existing combinations to UNE-P configurations.[78] Mr. Silver's compliance affidavit did not provide any exhibits explaining how recurring charges apply for UNE-P configurations.

145. In response to Staff data requests, Mr. Silver further clarified the manner in which certain of the Company's charges, for example its ULS billing charge, are applied and provided a brief summary of the application of recurring charges for UNE-P combinations.[79] Subsequent to these responses Mr. Silver provided further verbal clarification, for example explaining how the Company assesses carrier connection charges and how charges are applied for EEL reconfigurations.[80]

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[76] Phase I Interim Order on Investigation, Docket No. 01-0662, at ¶ 713, subsection d.
[77] Silver Phase I Compliance Affidavit, Attachments MDS-2 (Revised), MDS-2A, MDS-2B, MDS-2C, MDS-2D, MDS-2E (Revised), MDS-2F (Revised), MDS-3, and MDS-4.
[78] Id., Attachments MDS-1 (Revised) and MDS-5.
[79] Responses to Staff Data Requests JZ 17.0, JZ 18.0, JZ 20.0, and JZ 20.0 (Revised). See Schedule 32.01.
[80] See Tr. at 2910-2914 and 2924-2926, respectively.

Analysis and Recommendation

146. Through a combination of Mr. Silver's Phase I Compliance Affidavit, the Company's responses to Staff's data requests, and Mr. Silver's verbal explanations, the Company has clarified the application of its UNE combination rates, in particular its EEL and UNE-P combination rates, consistent with the directive in the Commission's Phase I Interim Order.

147. While the evidence and testimony presented by the Company has clarified how the Company applies the charges contained in it's UNE tariffs, this same evidence and testimony underscores the fact that the Company UNE tariffs do not make rate application transparent. For example, Scenario #1 in Attachment MDS-2A describes how the Company's tariffs apply to the "EEL 2-Wire Analog Loop – To – DS1 Interoffice Dedicated Transport Collocated" configuration. Among the recurring charges listed in this scenario is a charge for DS1 Interoffice Termination that applied per DS1 interoffice termination per month. The charges listed in MDS-2A are consistent with the fact that there is one DS1 interoffice termination in this scenario. ILL. C. C. No. 20, Part 19, Section 20, 3rd Revised Sheet No. 4 states "Carrier Connection Charge applied for each termination per Interoffice Transport Facility provided."" Thus, it would appear from the Company's tariff that a Carrier Connection Charge would be among the non-recurring charges listed for Scenario #1. It is not. Mr. Silver clarified that "…that carrier connection charge only applies in noncollocating situations" a fact that is not transparent from the Company's tariff.[81]

148. As stated above, the Company has through a combination of Mr. Silver's Phase I Compliance Affidavit, the Company's responses to Staff's data requests, and Mr. Silver's verbal explanations, clarified the application of its

[81] Tr. at 2912.

UNE combination rates, in particular its EEL and UNE-P combination rates. CLEC's seeking to purchase these products are, perhaps with the exception of those CLECs participating directly in the instant proceeding, unlikely to have the foresight to consult the Company's responses to Staff's data requests and Mr. Silver's verbal explanations when attempting to figure out how the Company applies it UNE combination rates. In fact, new entrants may not be able to access these documents at all.

149. In order to ensure that the application of the Company's UNE combination rates is transparent to CLECs seeking to purchase UNE combinations, the Company must take steps to make the rate application information it presented in the instant proceeding available to CLECs. In particular, with respect to EELs, the Company should make available the typical scenarios and associated rate applications contained in Attachments MDS-2A. The Company should also provide an additional scenario to MDS-2A that clarifies the application of the Company's non-recurring rates when CLECs add an additional 2-wire loop to a preexisting EEL configuration. The Company should provide this additional EELs attachment (which should include only Illinois charges from MDS-2A) in its rebuttal affidavits. With respect to UNE-Ps, the Company should make available the typical scenarios and associated rate applications contained in Attachment MDS-5. Attachment MDS-5 does not, however, include information explaining the application of the Company's UNE-P recurring rates. Therefore, the Company should add recurring charge detail to MDS-5 as it has done for EELs in Attachment MDS-2A. The Company should provide this additional UNE-P attachment in it's rebuttal affidavits. The Company should also explain in it's rebuttal affidavits the steps it will take to ensure that this information is available to CLECs in Illinois.[82]

EEL and UNE-P Rate Reasonableness

Commission Ordered Action

150. The Commission's Phase I Interim Order in this instant proceeding directs the Company to demonstrate that:

> its UNE combination rates fall reasonably within a range of TELRIC compliance. This might be accomplished by demonstrating, for each UNE combination rate it charges, that the rate is at a level that has been found to be TELRIC compliant by the Commission or, if the rate is interim (either because the Commission ordered an interim rate or because the TELRIC compliance of the rate has never been explicitly addressed by the Commission), proving that the rate is in a zone of reasonableness by, for example, comparing those rates to rates in other comparable states whose have been found to be TELRIC compliant, as indicated above.[83]

Company Compliance Filing

151. To address the Commission's concerns Mr. Silver, the Company compliance affiant for this issue, provided comparisons between the Company's EEL and UNE-P combination rates in Illinois and the respective EEL and UNE-P combination rates in SBC's Texas, California and Michigan service areas.[84]

152. Mr. Silver contends that "…SBC Illinois' currently effective NRCs for new UNE-P combinations are within the range of TELRIC compliance."[85] As support for this finding Mr. Silver indicates "…the SBC Illinois' NRCs for new

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[82] I note that the Company might accomplish this by including in it's UNE tariffs the "typical scenarios" contained in the additional EELs and UNE-P attachments that I have recommended the Company submit with it's rebuttal affidavits.
[83] Phase I Interim Order on Investigation, Docket No. 01-0662, at ¶ 713, subsection d.
[84] The EELs rate comparisons are summarized in Silver Phase I Compliance Affidavit, Attachment MDS-2 (Revised). The non-recurring rate UNE-P comparisons are summarized in Silver Phase I Compliance Affidavit, Attachment MDS-1 (Revised).
[85] Silver Phase I Compliance Affidavit at ¶ 7.

UNE-P combinations are lower than the comparable charges in Texas, California, or Michigan.[86]

153. With respect to EELs Mr. Silver takes a different approach and compares both the Company's non-recurring and recurring EEL charges to the comparable non-recurring and recurring charges in Texas, California, and Michigan. As noted by Mr. Silver "…the charges for EELs in Illinois are higher than comparable charges in Texas and Michigan."[87] Mr. Silver concludes however, that

> The FCC's Order authorizing 271 relief for SBC California found that SBC California's rates were 'just, reasonable, and nondiscriminatory, and satisfy checklist item 2.' Therefore, since the total amount of SBC Illinois' EEL charges (recurring plus non-recurring) for EELs are less than the comparable charges in California, the SBC Illinois rates (including NRCs) should be considered reasonable and within the range of TELRIC compliance.[88]

Analysis and Recommendation

154. The Company's compliance filing with respect to this issue was deficient in two key respects. First, as noted above the Company used inconsistent approaches to compare its UNE-P and EEL rates to other states, comparing only non-recurring UNE-P charges, but both non-recurring and recurring EEL charges. Second, the Company failed to supply any evidence to account for cost differences across states. The Company supplied information to remedy both of these deficiencies in response to Staff data requests. First, the Company provided a schedule comparing both non-recurring and recurring UNE-P charges across states.[89] Second, the Company provided information from the FCC's USF cost model, which provides estimates of cost

[86] Id. at ¶ 6.
[87] Id. at ¶ 14.
[88] Id. at ¶ 15.
[89] Response to Staff Data Request JZ 20.0. See Schedule 32.01.

differences across states.[90]

155. One manner in which to assess rate reasonableness is to compare Illinois rates to rates in other states that have been granted 271 authority by the FCC and to make the comparison's taking into account cost differences between states. Under this type of analysis, the sum of the Company's recurring and non-recurring UNE-P charges in Illinois is, for the basic UNE-P configuration, well below the comparable sums in Texas and California when cost differences are accounted for. For example the USF cost model assessment provided by the Company indicates that Texas costs are 13.8% higher than Illinois costs.[91] However, the UNE-P cost comparison presented by the Company indicates that Texas UNE-P costs exceed Illinois UNE-P costs by over 80%. Similarly, the USF cost model assessment provided by the Company indicates that California costs are 1.2% higher than Illinois costs.[92] However, the UNE-P rates in California exceed Illinois UNE-P costs by over 60%.

156. While the USF cost assessment submitted by the Company generally measures recurring cost differences for elements comprising UNE-P, the FCC has no similar USF cost assessment that generally captures all of the elements comprising EELs. In particular the non-loop component of the USF cost assessment submitted by the Company reflects switching and shared-transport components rather than the dedicated transport elements that are a part of EELs combinations. Nevertheless, the USF cost assessment provides an estimate of cost differences between states and may be used to determine the reasonableness of EELs rates. For example the USF cost

[90] Response to Staff Data Request JZ 19.0. See Schedule 32.01.
[91] Specifically, according to the USF cost model assessment presented by the Company recurring loop costs are 15.2% higher in Texas than in Illinois and recurring non-loop costs are 9.2% higher in Texas than in Illinois. Response to Staff Data Request JZ 19.0. See Schedule 32.01.

[92] Specifically, according to the USF cost model assessment presented by the Company recurring loop costs are 0.5% lower in California than in Illinois and recurring non-loop costs are 6.9% higher in California than in Illinois. Response to Staff Data Request JZ 19.0. See Schedule 32.01.

model assessment provided by the Company indicates that Texas costs are 9.2% - 15.2% higher than Illinois costs.[93] However, EEL rates in Illinois are often higher than EEL rates in Texas. The USF cost model assessment provided by the Company indicates that California costs are between 0.5% lower than Illinois costs and 6.9% higher than Illinois costs.[94] However, the EEL costs (based on a 24 month assessment) in California exceed Illinois EEL costs by 3.3% - 67.5%. Thus, while relative to Texas and Michigan the Company's EEL rates appear high, relative to California they are, in my opinion, reasonable.

157. Based on the evidence submitted by the Company, the Company's EELs rates are at the upper end of any zone of reasonableness. My recommendation, however, is informed by two additional factors. First, Staff agreed to these rates as reasonable interim rates in the reopening in Docket No. 98-0396.[95] Second, the Commission is currently investigating the Company's EEL rates and, therefore, may make the adjustments to these rates that the Texas and Michigan data suggest may be necessary.[96] These factors in combination with favorable comparisons to California lead me to conclude that the Company's existing EEL rates are, as interim rates, within a zone of reasonableness.

158. In my opinion, based on comparisons to other states with Section 271 approval and factoring in cost differences between states the Company's current tariffed UNE-P and EEL combinations rates are within a zone of reasonableness.

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[93] Specifically, according to the USF cost model assessment presented by the Company Loop costs are 15.2% higher in Texas than in Illinois and Non-Loop costs are 9.2% higher in Texas than in Illinois. Response to Staff Data Request 01-0662. See Schedule 32.01.

[94] Specifically, according to the USF cost model assessment presented by the Company Loop costs are 0.5% lower in California than in Illinois and Non-Loop costs are 6.9% higher in California than in Illinois. Response to Staff Data Request 01-0662. See Schedule 32.01.

[95] Commission Order on Reopening in Docket No. 98-0396 at 11.

[96] The Commission is currently considering EELs non-recurring charges and recurring loop charges in Docket No. 02-0864.